



BEFORE THE MONTGOMERY COUNTY ETHICS COMMISSION

Advisory Opinion No. 04-004

A public employee asks if there is a conflict between his public employment and his role as a volunteer member of the board of directors of a local non profit charitable corporation. The employee also asks whether there is a conflict between his public employment and his role as a member of an advisory board (not a board of directors) being formed for a local bank. As to the first question, we perceive no conflict under § 19A-11(a)(2)(A) because the employee has not indicated that he is participating in any matter in which the corporation is a party. As to the second issue, we perceive no conflict under § 19A-11.

Membership on the Board of Directors of the Charitable Corporation

The public employee works at one of the County's regional services centers. His duties require him to be familiar with the area and population served by the center. The charitable corporation he volunteers for is also located in that area and also serves members of that same community. The corporation receives state and County funding.

The ethics law precludes a public employee from participating in any matter if the employee knows, or reasonably should know, that a business in which he is an officer or director is a party to that matter. § 19A-11(a)(2)(A) Montgomery County Code (1994), as amended. Based upon the limited facts provided, the employee has not indicated that he is participating in any "matter" in which the charitable corporation is a party. Thus, unless and until the situation changes, there is no conflict. *See Advisory Opinion 03-008.*

Membership on the Advisory Board of the Bank

The employee also wants to join an advisory board for a local bank. Because this is an advisory board, and not a board of directors, the employee owes no fiduciary duty to the bank and, consequently, there is no divided loyalty issue under § 19A-11(a)(2)(A). Moreover, the employee has not identified any other factor that could lead to a conflict under the other subsections of § 19A-11. As in the case of the charitable corporation, unless and until the situation changes, there is no conflict.

FOR THE COMMISSION:

Elizabeth K. Kellar, Chair

June 21, 2004